

Offender & Student Grievances



Staff Development and Training

Performance Objectives

- ◎ Identify 5 Purposes of the Offender/Student Grievance Process
- ◎ Identify 5 Grievable Issues
- ◎ Identify 12 Non-Grievable Issues
- ◎ Identify 10 Guidelines for Writing a Grievance

Purpose of a Grievance

- ◎ A fair, prompt decision and action to an individual offender/student complaint
- ◎ An available channel for hearing and resolving concerns of offenders/students
- ◎ A management tool
- ◎ A way to lessen conflict between offenders & staff, and offenders & other offenders
- ◎ Administrative remedy to complaints before the submission of the complaint to the court

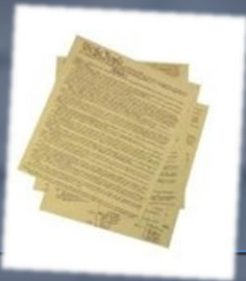
Informal Resolution of Grievances



Attempts to resolve problems informally **must** be made by the offender before a formal written grievance can be filed

Informal Resolution (Adults)

- ◎ Time Requirements: An offender shall attempt to contact staff within five (5) working days after the incident.
- ◎ Staff receiving the complaint shall determine if he/she can address the complaint. If not, the staff person shall, within two (2) working days, contact staff who may be able to resolve the complaint.
- ◎ If complaint cannot be resolved in ten (10) working days, the offender shall be permitted to submit a grievance form.



Documentation

Due to this step in the process being informal, the Department prescribes no form for documentation. A facility is free to generate its forms as a means of documenting attempted informal resolution including dates and those involved in the matter. Any such documents should become part of the official record of the grievance process dealing with the complaint.

Formal Written Grievance

- ◎ May be filed after the informal process has failed
- ◎ Staff and offenders have specific rules and procedures for the process
- ◎ Juveniles are encouraged to resolve issues informally, but may file a formal written grievance immediately

Formal Written Grievance

- ◎ An adult offender has 20 working days to submit a completed grievance form from the date of the incident (State Form 45471: “OFFENDER GRIEVANCE”)
- ◎ The offender shall be provided State Form 45471 within one (1) working day from the date the form is requested



Formal Written Grievance

- ◎ Staff shall forward the completed grievance form to the Executive Assistant within one (1) working day of receiving it.
- ◎ If the offender does not receive a receipt or rejected form from the Executive Assistant within seven (7) working days of submitting it, the offender will immediately notify the Executive Assistant of that facility.



Grievance Standards

- Each part of the grievance form must be completed.
- It must be written legibly, in plain, simple English.
- It must avoid the use of legal terminology.
- It must raise the same issue the offender raised in attempting an informal resolution.
- It must relate to one event or issue.
- It must be submitted on his/her own behalf, though it can be written by another offender or staff due to physical/language problems.



Grievance Standards

- ◎ It must explain how the situation/incident affects the offender.
- ◎ It must show how the offender attempted to informally resolve the complaint.
- ◎ The offender must sign the grievance form unless unable to due to transfer or inability to write (staff must indicate the reason the offender did not sign).
- ◎ The grievance form must be dated.
- ◎ The offender must suggest some relief or remedy.

Grievance Standards

If the grievance form is returned to the offender for not attempting to resolve the complaint informally, the offender shall be given five (5) working days from the date the State Form 45475 “RETURN OF GRIEVANCE” is completed to seek an informal resolution, and his/her failure to do so will disqualify him/her from filing a grievance.

Grievance Standards

If the offender does seek an informal resolution within five (5) working days and there is no resolution within fifteen (15) working days of the date the grievance form was returned, the offender shall have five (5) working days after that to submit a revised grievance form reporting that fact.





Grievable Issues

- ◎ The substance, interpretation, and application of policies, procedures, and rules of the Department or facility (including, but not limited to correspondence, staff treatment, medical or mental health, some visitation and food service)
- ◎ The way that staff members are interpreting and applying policies, procedures, or rules of the Department or of the facility

Grievable Issues

- ◎ Actions of individual staff, contractors, or volunteers
- ◎ Acts of reprisal for the good faith use of, or participation in, the Offender Grievance Process
- ◎ Any other concerns relating to conditions of care or supervision within the Department or its contractors



Non-Grievable Issues

- ◉ Federal, State, and Local laws
- ◉ Court actions and decisions, including pre-sentence investigation reports
- ◉ Parole Board actions or Indiana Clemency Commission decisions (Adult)
- ◉ Parole Agent recommendations to the Parole Board (Adult)
- ◉ Classification decisions or actions

Non-Grievable Issues

- ⦿ Contents of grievance/appeal response from Department Offender Grievance Manager
- ⦿ Disciplinary decisions or actions
- ⦿ Complaints on behalf of other offenders
- ⦿ The denial of a sex offender's visit with minors based on results of Department's case review
- ⦿ Issues over which the Department has no control

Non-Grievable Issues

- ◎ Loss, damage or destruction of an offender's personal property where the offender is seeking reimbursement or a monetary award for such loss which is covered by the administrative procedures for Policy 00-01-103, "Tort Claims for Property Loss"
- ◎ A Facility Head's decision to designate an offender as an abuser of the grievance program, restricting the offender's access to the Offender Grievance Process



Remedies

The appropriate remedy is to be provided in a timely manner if the grievance is decided in favor of the offender.

Note: No grievance will be rejected because an offender seeks an improper or unavailable remedy, except that a grievance will be rejected if the offender seeks:

- ◎ A remedy available through classification staff
- ◎ A remedy for an error allegedly occurring during a disciplinary proceeding
- ◎ A remedy to a situation/event that is outside the authority of the Department

Remedies

The Department may, at its discretion, provide one or more of the following remedies:

1. Provide or replace state-issued items that have been lost, stolen, or damaged through the negligence of staff
2. Report possible staff negligence to the Attorney General for consideration of providing a remedy through the Tort Claims fund in the event a notice is submitted under the Indiana Tort Claims Act

Remedies

3. Change Department or facility procedures or practices
4. Correct Department records
5. Provide other remedies as deemed appropriate by the Facility Head

No Fear of Reprisal



Offenders using the Offender Grievance Process in good faith shall not be subject to reprisal from staff or other offenders

Executive Assistance

All formal grievances submitted by offenders are forwarded to the Executive Assistant who ensures compliance with administrative procedures

Duties:

- ◎ 15 working days to investigate/respond to grievance (adults)
- ◎ 10 working days to investigate/respond to grievance (juveniles)

Department Offender Grievance Manager

- ◎ Responsible for the overall management of the offender grievance process



Guidelines for a Written Formal Grievance

- Offender must submit formal grievance on State Form 45471 which must be provided to them within one (1) working day of request
- Adult offenders must submit grievance within 20 working days from date of incident
- Juveniles must submit grievance within 10 working days from date of incident

Guidelines for a Written Formal Grievance

- Executive Assistant has 15 working days to investigate and respond to grievance (adult).
- Juvenile facility: Executive Assistant has 10 working days to investigate and respond.
- Adult offenders may file appeal to Department Offender Grievance Manager within 10 working days.
- Juvenile/students may appeal grievance response to Facility Head, who is final reviewing authority

Guidelines for a Written Formal Grievance

- ◎ Offender must be provided appeal forms within one (1) working day
- ◎ Staff receiving an appeal shall forward appeal to Executive Assistant within one (1) working day
- ◎ Executive Assistant shall provide offender a receipt for appeal within one (1) working day from date appeal is logged into Offender Grievance System

Guidelines for a Written Formal Grievance

- ◎ Executive Assistant must review, log, and email the appeal to Department Offender Grievance Manager within 5 working days of receipt.
- ◎ Department Offender Grievance Manager shall confirm appeal is received from the Executive Assistant via email.
- ◎ Department Offender Grievance Manager shall complete investigation, submit response within 20 working days, return appeal response to Executive Assistant via email.

Guidelines for a Written Formal Grievance

- ◎ Executive Assistant will review/log appeal response, print copy of appeal response, ensure offender receives appeal response within two (2) working days
- ◎ NOTE: Juvenile (student): following final resolution of grievance, whether in student's favor or not, Executive Assistant or other designated staff shall meet with student to ensure any approved action to resolve grievance has been completed

Time Extensions

- ◎ An offender who does not follow the time limits set out in administrative procedure should expect to have his/her grievance or appeal denied for that reason unless he/she is able to show good cause.
- ◎ The Executive Assistant may extend his/her deadline once for 15 working days, 20 working days for the Department Offender Grievance Manager . This shall be done by notifying the offender of the extension within the original period for responding.

Elements of a Grievance



- Name(s) of staff involved
- Date, time, and location of incident
- What happened or was said
- Names of witnesses
- Names of staff contacted by the offender and the response provided to the offender at the informal step

Transfer or Release from Supervision



- ◎ Offender must exhaust administrative remedies through former facility
- ◎ Formal grievance must be written within 20 working days of transfer or release
- ◎ A grace period should be allowed for offender or staff to communicate with another facility

Abuse of the Grievance Process



- ◎ Offenders will not be allowed to abuse this program
- ◎ Determination of if an offender is abusing the program will not be based solely on the number of complaints filed
- ◎ Types of grievances and subject matter will be considered in the determination

Abuse of the Grievance Process

- ◎ Executive Assistant may interview an offender who appears to be abusing the process and refer the offender to the Facility Head.
- ◎ The Facility Head shall determine whether the offender is an abuser of the grievance process, and may restrict the offender up to ten (10) active grievances in the grievance system at one time, excluding life threatening or court-remanded grievances

Abuse of the Grievance Process

- ◎ The offender shall be placed on such restriction for a period of ninety (90) calendar days from the date of determination.
- ◎ An offender's ability to seek resolution of grievances through the informal process shall not be restricted.
- ◎ A decision to restrict an offender's access to the Offender Grievance Process shall be automatically forwarded to Central Office for review by the Department Offender Grievance Manager.

Congratulations!!

You have completed the module on,

“Offender & Student Grievance.”

**If you have any questions, please
contact your Community Involvement
Coordinator.**

Staff Development and Training